UNITED
NATIONS

S

Security Council

Distr.
GENERAL

S/1998/1160
11 December 1998

ORIGINAL: ENGLISH

REPORT OF THE SECRETARY-GENERAL ON THE SITUATION CONCERNING WESTERN SAHARA

I. INTRODUCTION

1. The present report is submitted pursuant to Security Council resolution 1204 (1998) of 30 October 1998, by which the Council extended the mandate of the United Nations Mission for the Referendum in Western Sahara (MINURSO) until 17 December 1998. The Council also requested me to report to it by 11 December 1998 on the progress of the implementation of the Settlement Plan for Western Sahara (S/21360 and S/22464 and Corr.1) and the agreements reached between the parties, the Kingdom of Morocco and the Frente Popular para la Liberación de Saguía el-Hamra y del Río de Oro (Frente POLISARIO), under the auspices of my Personal Envoy, James A. Baker III (S/1997/742, annexes I-III). The present report covers developments since my previous report to the Council, dated 26 October 1998 (S/1998/997).

II. DEVELOPMENTS DURING THE REPORTING PERIOD

A. Consultations with the parties

2. In its resolution 1204 (1998), the Security Council called upon the parties to agree to a package of measures by mid-November 1998 in order to allow positive consideration of further stages in the settlement process. As described in paragraphs 4 and 5 of my previous report, that package, which was presented by the United Nations to the two parties and to Algeria and Mauritania in mid-October 1998, was aimed at moving forward with the implementation of the Settlement Plan. The key provisions of the package were the initiation of the appeals process for already identified applicants at the same time as the identification of applicants from tribal groupings H41, H61 and J51/52 wishing to present themselves individually; the effective formalization of the presence of the Office of the United Nations High Commissioner for Refugees (UNHCR) in the Territory, to allow the necessary preparation for the repatriation of refugees and other Saharans residing outside the Territory who are eligible to vote, together with their immediate families; and a revised schedule, under which the transitional period would start in June-July 1999 and the referendum would be held in December 1999, provided that the parties cooperate fully.

3. The measures to be taken were detailed in a set of documents, which include a draft protocol on the identification of those applicants from tribal groupings H41, H61 and J51/52 wishing to present themselves individually, a draft protocol on the appeals process, a memorandum on the activities of UNHCR in the region, and a calendar outlining the next stages of the Settlement Plan. In addition, a draft protocol prepared in close consultation with UNHCR, containing detailed provisions on the necessary preparation for the repatriation of refugees and other Saharans residing outside the Territory who are eligible to vote, together with their immediate families, was submitted to Morocco and the Frente POLISARIO, and to Algeria and Mauritania, early in November 1998.

4. As envisaged in my previous report, I travelled to the region on 7 November 1998, accompanied by my Special Representative, Charles F. Dunbar, and other senior United Nations officials. It was initially planned that my visit would be from 7 to 16 November, but developments elsewhere compelled me to return to Headquarters on 12 November. Since I was thus able to meet only with the Mauritanian and Moroccan authorities during the first leg of my trip, I resumed my visit from 29 November to 2 December, to meet with the Frente POLISARIO and the Algerian authorities.

5. On 7 and 8 November, I was received in Nouakchott by the President of the Islamic Republic of Mauritania, Maaouya Ould Sid'Ahmed Taya, and met with the Prime Minister, Mohamed Lemine Ould Guig, and the Minister for Foreign Affairs, Sheikh El-Avia Ould Mohamed Khouna. At Laayoune in Western Sahara, on 9 November, I visited MINURSO headquarters and met with the Moroccan Minister of the Interior, Driss Basri, and a group of Saharan dignitaries. At Marrakesh in Morocco, on 10 and 11 November, I was received by H.M. King Hassan II and met with Crown Prince Sidi Mohamed, Prince Moulay Rachid, the Prime Minister, Abderrahmane El Youssoufi, the Minister for Foreign Affairs and Cooperation, Abdellatif Filali, Interior Minister Basri and other senior government officials. During my resumed visit to the region, on 30 November, I met with the Secretary-General of the Frente POLISARIO, Mohamed Abdelaziz, and other senior POLISARIO officials, as well as a group of Saharan dignitaries in the Tindouf area of Algeria. On 1 and 2 December, I was received in Algiers by the President, Liamine Zeroual, and met with the Prime Minister, Ahmed Ouyahia, the Minister for Foreign Affairs, Ahmed Attaf, and other senior government officials.

6. During our discussions in Marrakesh, the Moroccan authorities, while reiterating their readiness to cooperate with UNHCR, expressed their concern about key provisions of the package of measures proposed by the United Nations, in particular the simultaneous implementation of the appeals and identification procedures. The authorities argued that this was not in line with the Settlement Plan and would undermine the equal treatment which should be accorded to all applicants, and that the issuance of the provisional list of potential voters at this stage would trigger negative public reactions. I assured my interlocutors that, while designed to accelerate the referendum process, as requested by the parties, no measure would infringe on the right of applicants, including those from the three groupings mentioned above, to be identified and to appeal, and that the United Nations was determined to abide by the principles of impartiality and objectivity. The Moroccan authorities promised a formal response to the package shortly. They also indicated that they were finalizing

their reply to the Secretariat comments on their response of 27 August 1998 to the draft status-of-forces agreement concerning MINURSO. I impressed upon the authorities that they should send their reply as soon as possible, with a view to signing the agreement without further delay.

7. In Tindouf, the Frente POLISARIO leadership expressed its formal acceptance of the package of measures and presented me with a memorandum to that effect.

8. In Algiers and Nouakchott, I was assured of the full support of the Algerian and Mauritanian authorities for the package of measures. The Government of Mauritania also confirmed to me its readiness to conclude the status-of-forces agreement on MINURSO, which it indeed subsequently signed with the United Nations at Headquarters, on 20 November 1998.

9. By a letter dated 20 November 1998, the Moroccan Minister for Foreign Affairs and Cooperation transmitted to me a memorandum containing his Government's formal response to the draft protocols described in paragraph 3 above. The memorandum confirmed the interrogations and concerns of the Moroccan authorities regarding the proposed package and expressed the view that the principles of self-determination, cooperation and impartiality upon which the Settlement Plan is based appeared to be called into question. In this regard, the memorandum questioned the simultaneous initiation of the identification of the remaining applicants from tribal groupings H41, H61 and J51/52 and the appeals process for applicants already identified, and voiced concerns about several aspects of the modalities for the identification of the three tribal groupings and the appeals procedures. It requested clarifications with respect to the timing of the next steps in the implementation of the Settlement Plan and proposed that the UNHCR mission in Western Sahara be the subject of an agreement to be negotiated between Morocco and UNHCR.

10. In the meantime, early in November 1998, my Special Representative had communicated to both parties the list of applicants from tribal groupings H41, H61 and J51/52, together with details of the practical measures to be taken during the month of November 1998 for the start of the identification and the appeals on 1 December 1998, in accordance with Security Council resolution 1204 (1998). Consultations to that effect were held with the Frente POLISARIO Coordinator. However, the consultations to be held with Morocco in this regard were deferred at the request of the Moroccan authorities. My Special Representative has offered to clarify for the Moroccan authorities any points that may be unclear and to provide any additional information that may be needed, to enable the consultations to move forward.

11. On 1 December 1998, the Identification Commission communicated to the parties the results of the identification since the beginning of the process in 1994, following the Commission's review of all files, notably incorporating pertinent observations by the parties on individual cases, additional information provided by applicants, cross-referenced eligibility determinations on family members, and internal consistency measures.

12. In the light of the position taken by the Government of Morocco in its memorandum addressed to me dated 20 November 1998, and in the absence of practical steps for implementation on the ground, the Identification Commission

did not publish the provisional list of potential voters on 1 December 1998. Accordingly, no steps have so far been taken towards expanding the staff of the Commission. The contracts of the majority of the Commission staff will expire by the end of this month. Their extension will obviously depend on the prospects for resuming the identification work in the immediate future and on the decisions the Security Council will take concerning the mandate of MINURSO.

B. Military aspects

13. As at 2 December 1998, the strength of the military component of MINURSO stood at 384 all ranks (see annex), including the engineering support unit from Pakistan deployed in accordance with Security Council resolution 1148 (1998) of 26 January 1998. Under the command of Major General Bernd S. Lubenik (Austria), the MINURSO military component continues to monitor the ceasefire between the Royal Moroccan Army and the Frente POLISARIO forces, which came into effect on 6 September 1991. The Moroccan armed forces continued to abide by the provisions of the military agreement between MINURSO and Morocco of 23 July 1998, and to provide recovery, transportation and logistical support to the Mission's formed military units when needed, and also exchanged with them information on mines and unexploded ordnance. The MINURSO area of responsibility remains calm, and there have been no indications that either side intends to resume hostilities.

14. The last remaining member of the MINURSO demining unit from Sweden was repatriated on 20 November 1998. As indicated in my previous report, arrangements will have to be made in due course to complete the mine-clearance tasks of MINURSO relating in particular to the repatriation programme.

15. During the reporting period, the engineering support unit completed its construction work for logistical and accommodation purposes at Dakhla and for the establishment of the forward logistical base at Awsard. The unit also completed the refurbishment of subsector commands east of the defensive sand wall (berm). The unit's operational capability remained constrained by the lack of communication equipment, which the Moroccan authorities have failed so far to release from Laayoune airport despite the assurances given by the Minister of the Interior that the matter would be resolved. With the completion of its current tasks, the engineering support unit began redeployment to Laayoune. As further construction work in preparation for the transitional period is linked to the full deployment of MINURSO, it would not be cost-effective to commence such work at this stage. Since no meaningful employment is envisaged for the engineering support unit in the near future, arrangements are being made for the unit to be repatriated in January 1999, on the understanding that it would remain on stand-by for rapid reinduction to the Mission area in due course.

C. Civilian police aspects

16. During the reporting period, 54 MINURSO civilian police officers from seven countries were repatriated after completion of their tour of duty. Their replacement has been put on hold, pending a decision by the Security Council on the resumption of the identification process. The strength of the civilian

police component of MINURSO currently stands at 26 officers, of an authorized total of 81. Since the departure of the Police Commissioner, Chief Superintendent Peter Miller (Canada), who completed his tour of duty on 25 November 1998, this component has been under the temporary command of the Deputy Commissioner, Assistant Commandant Sunil Roy (India).

17. At present, the civilian police component performs security duties at Laayoune and Tindouf, including the guarding of Identification Commission files, and continues to work with UNHCR in the planning process for the repatriation of refugees.

D. Preparatory work for the repatriation of Saharan refugees

18. My Special Representative presented the draft refugee repatriation protocol described in paragraph 3 above to the Prime Minister, the Minister for Foreign Affairs and Cooperation and the Minister of the Interior of Morocco in Rabat on 5 November 1998. The Chairman of the Identification Commission, Robin Kinloch, presented the draft to the Frente POLISARIO Coordinator with MINURSO on 4 November. The draft protocol was also forwarded by the Secretariat to the Governments of Algeria and Mauritania.

19. As part of its acceptance of the package of measures mentioned above, the Frente POLISARIO agreed to the memorandum describing the work of UNHCR prior to the transition period. However, with respect to the resumption of UNHCR pre-registration of refugees called for in that document and in my previous report (S/1998/997), the Frente POLISARIO told my Special Representative that such work should begin when the other measures in the package came into effect. UNHCR hopes that, in the light of the clarifications it has provided on a number of issues relating to its preparatory work, the Frente POLISARIO will permit pre-registration to resume in the Tindouf camps without further delay.

20. UNHCR continued with various preparatory activities in Algeria, Mauritania and the Territory east of the berm, including road reconnaissance, logistics and infrastructure development planning, water development surveys, and cooperation with MINURSO.

21. UNHCR has deployed a senior official to Laayoune to coordinate its preparatory activities in the western part of the Territory, including confidence-building, infrastructure development and road reconnaissance. That official accompanied my Special Representative during his 5 November calls on the Moroccan Prime Minister and Minister for Foreign Affairs and Cooperation in Rabat and met briefly with the Moroccan Minister of the Interior in Laayoune on 8 November. The senior official has requested meetings with the Moroccan Coordinator and the Coordinator's deputy and is awaiting a response. UNHCR continues to hope that the Government of Morocco will accept the requests it and MINURSO have repeatedly made for the effective formalization of the presence of UNHCR in the Territory and for the designation of Moroccan technical counterparts, to elaborate jointly preparatory activities for the repatriation and reintegration of Saharan refugees.

III. FINANCIAL ASPECTS

22. The General Assembly, by its resolution 53/18 of 2 November 1998, appropriated an additional amount of $37.3 million gross, equivalent to some $4.7 million gross per month, for the maintenance of MINURSO for the period from 1 November 1998 to 30 June 1999. Therefore, should the Council decide to extend the mandate of MINURSO, as recommended in paragraph 30 below, the cost of maintaining the Mission during the extension period, including adjustments in its operations, if any, would be within the monthly rate approved by the General Assembly. As at 8 December 1998, unpaid assessed contributions to the MINURSO special account amounted to $64.7 million. The total outstanding assessed contributions for all peacekeeping operations as at that date amounted to $1,640.6 million.

IV. OBSERVATIONS AND RECOMMENDATIONS

23. In my previous report (S/1998/997), I indicated that, since the deadlock over the identification process was due primarily to the inability of the Government of Morocco and the Frente POLISARIO to reach a compromise on the issue of tribal groupings H41, H61 and J51/52, I had decided to present my own arbitration in order to move the process forward. To that effect, a package of measures was presented by the United Nations to the parties. The key provisions of the package are described in paragraph 2 above. In my report, I also proposed that the package of measures be adopted and put into effect by 1 December 1998 and that all the related documents be initialled during my trip to the region. That proposal was based on the generally favourable reception accorded to the package when it was presented to the parties by the Under-Secretary-General for Peacekeeping Operations during his visit to the region in mid-October 1998.

24. During my visit to the region, I was warmly received by the parties and had most useful meetings with them, and in Algeria and Mauritania, all of which reiterated their commitment to the settlement process. However, while the package was formally accepted by the Frente POLISARIO and received the full support of Algeria and Mauritania, the initial concerns expressed by the Government of Morocco during my visit to Marrakesh were reiterated in its memorandum of 20 November 1998. In that memorandum, the Moroccan authorities are seeking clarifications on some provisions of the draft protocols, with a view to taking a formal decision on the package presented by the United Nations.

25. The identification of applicants from tribal groupings H41, H61 and J51/52 has been a constant source of contention between the parties and the subject of three recent compromise proposals. One was accepted by the parties as part of the Houston agreements (S/1997/742, annex III). A second compromise proposal was offered in my report of 15 January 1998 (S/1998/35, para. 10). The third is contained in the current package which was supported by the Security Council in its resolution 1204 (1998).

26. The implementation of my proposal to launch simultaneously the identification and appeals processes would clearly demonstrate the readiness of both parties to compromise and their willingness to accelerate the referendum

process, in accordance with the wishes they have publicly expressed in recent months. In view of the concerns expressed by Morocco, I wish to confirm that the proposed measures will entitle all applicants both to an initial identification hearing and to be part of a just and comprehensive process of appeals. In any event, the final list of voters would be published only after the end of the appeals process for applicants from all tribal groupings.

27. The effective formalization of the presence of UNHCR in the Territory and the conclusion of the refugee repatriation protocol are essential to beginning, in the pre-transition period, the confidence-building activities necessary to ensure the return of the refugees in safety and in dignity, in accordance with the Settlement Plan. It is therefore my earnest hope that the draft protocol can be agreed upon and signed by Morocco and the Frente POLISARIO, and by Algeria and Mauritania, on the occasion of a visit of the United Nations High Commissioner for Refugees to the region early in 1999. Pre-registration activities in the refugee camps should also resume without further delay.

28. The general timeline set out in the calendar presented with the package of measures should also be accepted as a basis for MINURSO operations in the immediate future.

29. Finally, it is also essential that the Government of Morocco sign promptly the status-of-forces agreement on MINURSO.

30. To allow for further consultations and in the hope that those consultations will lead to an agreement on the various protocols before 31 January 1999, without undermining the integrity of the proposed package or calling into question the main elements of the draft protocols, I recommend that the mandate of MINURSO be extended until that date. Should the prospects for completing the identification process remain uncertain by that time, it would be my intention to revert to the Security Council and to ask my Personal Envoy to reassess the situation and the viability of the mandate of MINURSO.

Annex

United Nations Mission for the Referendum in Western Sahara: contributions as at 2 December 1998

	Military observers	Staff officers	Troops	Civilian police observers	Total
Argentina	1			-	455
Austria	5	-	-	-	5*
Bangladesh	6	-	-	-	6
Canada	-	-	-	2	2
China	16	-	-	-	16
Egypt	19	-	-	1	20
El Salvador	2	-	-	-	2
France	25	-	-	-	25
Ghana	6	-	7	1	14
Greece	-	-	-	-	0
Guinea	3	-	-	-	3
Honduras	12	-	-	-	12
Ireland	8	-	-	-	8
India	-	-	-	10	10
Italy	5	-	-	-	5
Kenya	8	-	-	-	8
Malaysia	13	-	-	-	13
Nigeria	5	-	-	-	5
Norway	-	-	-	2	2
Pakistan	5	6	148	9	168
Poland	3	-	-	-	3
Portugal	4	-	-	1	5
Republic of Korea	-	-	20	-	20
Russian Federation	25	-	-	-	25
Sweden	-	-	-	-	0

	Military observers	Staff officers	Troops	Civilian police observers	Total
Uruguay	13	-	-	-	13
United States of America	15	-	-	-	15
Venezuela	3	-	-	-	3
Total	202	6	175	26	409

* In addition to the Force Commander.

Map No. 3691 Rev. 20 UNITED NATIONS
December 1998

Department of Public Information
Cartographic Section